

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

Case No. CR98-201-MJP

V.

BENJAMIN BURNS,

Defendant.

**PROPOSED FINDINGS OF FACT
AND DETERMINATION AS TO
ALLEGED VIOLATIONS OF
SUPERVISED RELEASE**

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on November 18, 2011. The defendant appeared pursuant to a warrant issued in this case. The United States was represented by Bruce Miyake, and defendant was represented by Paula Deutsch. Also present was U.S. Probation Officer Mark Williams. The proceedings were digitally recorded.

SENTENCE AND PRIOR ACTION

Defendant was sentenced on December 17, 1998, by the Honorable William L. Dwyer for Manufacture of Methamphetamine. He received 120 months of detention and 5 years of supervised release.

On June 19, 2007, the Court approved a voluntary modification of Mr. Burns' supervision which directed him to participate in the home confinement program for a period of 90 days as a

1 result of his admitted use of alcohol and cocaine on or bout June 1, 2007. On November 18,
2 2008, the Court approved a no action report which charged him with using morphine on or
3 before October 2, 2008.

4 On September 22, 2009, the Court revoked Mr. Burns' supervision and imposed a term of
5 11 months custody, followed by a 49-month term of supervised release after he admitted to
6 possession of marijuana, associating with persons known to have felony records, possession of
7 methadone, and possession of morphine.

8 On August 29, 2011, a request for modifying the conditions of supervised release was
9 submitted to the Court after Mr. Burns admitted to consuming methamphetamine on two separate
10 occasions. On September 1, 2011, the Court approved the modification of 120 days electronic
11 home monitoring curfew component.

12 **PRESENTLY ALLEGED VIOLATIONS**

13 In a petition dated November 15, 2011, U.S. Probation Officer Jerrod Akins alleged that
14 defendant violated the following conditions of supervised release:

15 1. Using Amphetamine on or before September 21, 28, and October 12, 18, 24, 2011,
16 in violation of standard condition #7.

17 **FINDINGS FOLLOWING EVIDENTIARY HEARING**

18 Defendant admitted the above violations, waived any hearing as to whether they occurred,
19 and was informed the matter would be set for a disposition hearing on December 7, 2011 at 9:30
20 a.m.before District Judge Marsha J. Pechman.

21 **RECOMMENDED FINDINGS AND CONCLUSIONS**

22 Based upon the foregoing, I recommend the court find that defendant has violated the

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1 conditions of his supervised release as alleged above, and conduct a disposition hearing.

2 DATED this 18th day of November, 2011.

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5 BRIAN A. TSUCHIDA
6 United States Magistrate Judge
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